



SUBMISSION ON BEHALF OF THE ELY CENTRE

**IN RESPONSE TO
HM GOVERNMENT CONSULTATION ON
A LEGAL FRAMEWORK FOR A TROUBLES RELATED
INCIDENT PAYMENT SCHEME**

Foreward:

The Ely Centre is a Registered Military and Victims/Survivors Charity specializing in the provision of multi-disciplinary Support services for civilians, security force personnel , HM Forces and their families, who have experienced bereavement and injury as a result of the "Troubles" and other conflict zones.

The Ely Centre is committed to serving innocent victims and survivors, ex service personnel, their families and carers by providing evidenced based outcome focused treatments, prevention and support services that address issues of declining psychological, physical health, social and financial difficulties arising as a result of terrorism

In 2018 / 2019 The Ely Centre provided direct support to over 2000 recorded beneficiaries from across Co Fermanagh, Co Tyrone and Co Armagh with a focus primarily on the provision of Health and Well Being, Welfare Advice and Social Support with the overall aim of creating a better future for those who lives have been impacted as a result of the Troubles.

As an organization formed in the Aftermath of the Enniskillen Remembrance Sunday Bomb 1987 This submission is dedicated to the memory of all Innocent Civilians murdered on that day and to all Civilians, British Armed Forces and Security Force Personnel who were murdered as a result of Terrorism during The Troubles and subsequent military campaigns and their families who continue to suffer as a result of their loss.

Furthermore we remember those who continue to live with psychological and physical injuries as a result of terrorism and Military service. Their suffering must never be forgotten and every attempt made to effectively and efficiently address it.

"Let each of you look not only to his own interests, but also to the interests of others"

Introduction & Background

On behalf of the Ely Centre, we welcome this opportunity to respond to the consultation paper published by HM Government on a Legal Framework for a Troubles Related Incident Payment Scheme and to comment upon the proposals contained within it.

Over the past number of months the Ely Centre has engaged in a consultative process amongst our service users, project partners and other Victims and Survivors Charities to assist us in formulating a coherent, realistic and informed response to this consultation document.

This experience has proved to be of extreme benefit in strengthening relationships within the victims and survivors community and evidences the genuine need to ensure that the support we offer and wish to see offered to victims and survivors addresses the concerns they have highlighted and is a driver for reconciliation and peace building efforts in the aftermath of the Troubles.

In particular, in responding to this document we have sought advice, feedback and guidance from our vastly experienced welfare advice and pensions team. The Ely Centre currently employ a total of 3 welfare advice support officer who support victims and survivors residing within Co Fermanagh, Tyrone and Armagh. In the 2018-2019 period this team supported over 600 victims and survivors and obtained approximately 650k in welfare entitlement for these clients, the experience that this team has acquired in handling the current welfare reform process has proved to be extremely insightful in guiding our responses to certain aspects in particular the machinations of the scheme roll out within the consultation document.

As an organization focusing upon health and well-being and welfare and financial advice services The Ely Centre have and engage with victims and survivors on a daily basis. We therefore have a real and practical understanding of their diverse perspectives and needs, and of the nature and impact of mental health issues for individuals, families, and communities. This unique insight into the challenges and benefits involved in developing and delivering victim-centred services means we are also aware of gaps and needs within current support provision. This response is informed by the experience outlined above.

On reviewing this document we must state that the terminology to describe the scheme has the potential to fall far short of the expectations of many victims and survivors and is open to misinterpretation within this target group.

Whilst restitution does not appear to be the focus of this scheme, it appears that payments are to be viewed as some form of recognition and acknowledgement. It is our strong opinion that this and indeed any victims scheme must be based on recompense and victim entitlement as opposed to just acknowledgement of those who have been impacted by a Troubles Related Incident.

The terminology employed in drafting this scheme is crucial in relation to expectations within the victims and survivors community.

The current Cambridge definition of acknowledgement reads *the act or fact of accepting the truth or recognizing the existence of something*:

In contrast to Recompense which the current Cambridge dictionary defines as

Payment(s) given to someone for an injury suffered, or for the loss of or damage to property:

We strongly favor that the latter definition be employed in the final legislation as this seems to equate better to the intentions of the scheme and the strongly held desires of victims and survivors.

In responding to this consultation some familiar arguments in relation to the current definition of Victims/Survivors are expectedly unearthed again. New consideration of troubles related incidents and citizenship have led to interesting debates to reach a consensual view point. However in reviewing this proposal it has been unanimous across all discussions that the bereaved must be supported within this scheme, and thoughtful consideration as to how this can be achieved has been raised.

It is with much regret that many victims and wider members of society still are effected by the grip of terrorism and paramilitaries, this impact should not exclude those members from availing of this scheme, similarly there appears to be scant mention of the impact of trans generational trauma, upon the second and third generation of direct victims. We would strongly recommend that the children especially and to where evidenced the grandchildren of victims should be able to benefit from this scheme.

We have attempted to present the views of those we represent in as fair and coherent a manner as possible and we trust that these are presented in a manner befitting those we seek to support.

In summary we all are acutely aware and acknowledge that putting a cost on individual suffering resulting from the troubles is a very difficult and uncomfortable challenge. We fully accept that for many victims and survivors no amount of financial or monetary recompense will ever replace a lost loved one or reduce the suffering or pain an individual is living with. However difficult the process is, the lost and injured must be acknowledged and we commend all efforts to address it.

The Ely Centre remains cautiously optimistic and broadly committed to the vision of the 'Victims Payment Scheme' outlined in the Stormont House Agreement and the specific principles underpinning it.

1: Do you agree with the Broad Purpose of the Scheme

In Broad terms, the Ely Centre agree with the broader purpose of a scheme to support victims and survivors of troubles related incident. A scheme which recognizes the value of and sits alongside current support and which seeks to improve the lives of those most severely impacted as a result of the Troubles.

However on closer scrutiny of this document, questions have arisen which require further clarification before full endorsement of this proposal would be given.

The Legal Definition of a Victim: The Ely Centre do not agree with the current definition of victims/survivors as interpreted within the Victims and Survivors Order (2006). Therefore we would like clarity as to whether potential recipients of this payment scheme are those who currently comply with the current definition. We have been made aware of a letter issued recently from the Secretary of State to a partner group which outlines that this scheme will not be based upon the Victims Survivors 2006 order, which leads us to ask the question what Victim definition is being presented in this scheme, and who will be excluded from applying for this area of support.

“Pension “terminology: Para 31 states The Victim Pension will be a vehicle to promote a range of noble ambitions such as the promotion of reconciliation. We take the view that those who have been seriously physically or psychologically injured are **entitled** to this scheme, and they will view any support as a legitimate entitlement as a result of their suffering and not a pension. This language has the potential to be counterproductive to reconciliation.

Furthermore from reviewing the opening paragraphs in section 1 Bereaved persons who are interpreted and defined as victims /survivors within the 2006 order do not seem to benefit as clearly as those who currently live with physical/psychological Injuries.

This lack of clarity as to (1) who the victims are (2) who are able to benefit from the scheme has the potential to lead to further confusion and the development of resentment within the victims community. Whether an innocent person who has been injured or bereaved, it is our opinion that both should be able to apply to this scheme.

Purpose: We fully support the underlying purposes of this scheme to support victims and survivors however as mentioned above, a number of crucial issues requiring further exploration are required before a full endorsement would be given. However we congratulate HM Government for bringing forward these proposals allowing for reasoned responses

During consultation phase many contributors stated a strong belief that a high proportion of population should be entitled to payment because of present and delayed onset (future) psychological trauma of troubles, and therefore asked the reasonable question if such a scheme is affordable given the high percentage of claimants. Also raised , there appeared to be a lack of recognition in document for the requirement of training for those involved in assisting with the delivery of the scheme e.g. victims survivors support groups

2: Do You Agree With the Underpinning Principles

We broadly agree with the underpinning principles within the consultation and have suggested the following amendments/ expansions to a number of principles outlined.

The Secretary of State for Northern has indicated that the interpretation of a victim provided in the Victims and Survivors (NI) Order 2006 is not applicable in the context of the present proposed scheme. This is because this particular scheme will be administered by the Government and not by the Commission for Victims and Survivors.

The Government has insisted that it wants to provide additional support for seriously injured victims of the Troubles. The scheme would be made available to those living with permanent physical or psychological injuries which can be demonstrated to have been caused by a documented, Trouble-related incident.

The Government decided that the guiding principle for the scheme should be that it is open to individuals who were injured through no fault of their own. For example, terrorists who injured themselves as a result of carrying out acts of terrorism should be excluded (eg.: the bomber convicted for his part in the Shankill Road Bombing on 23 October 1993 and who injured himself while carrying the bomb into the shop should not be awarded a payment under this scheme).

Victim Centred: To ensure this scheme is victims centred we propose that it is targeted only at those who have innocently been bereaved/injured through no fault of their own as a result of A Troubles Related Incident. We propose the following amendments to the principles outlined in the document. ***Reducing Risk of Retraumatization:*** Victims Organizations should be used wherever possible as an environment on which victims can be assessed for the pension scheme. As much as possible current information which is already retained within the DHSS/ PSNI/ WAR PENSION / VSS / and or Victims/Survivors groups should be in a position to provide as much supplementary information to a claimants appeal therefore reducing the amount of additional burden on victims and reducing the risk of retraumatization for the clients. Where assessments are required options for organizations who support victims presently should be offered as a potential location with support from VPSO's. Continued mental health resources must be maintained within the victims groups throughout the application process to provide mental health support when required. ***Victims Payment Support Officers*** As welfare support advisors have proven to be extremely beneficial in supporting victims through the current welfare reform process, the increase that this scheme has the potential for will require supporting roles within organizations who will be supporting victims through this process therefore funding which will enable the creation of Victim Payment Support Officers Roles must be committed prior to the publication of the scheme. ***Non-Disclosure of Award:*** To reduce potential issues arising which may have the potential to offend many victims and wider society in general, reduce reconciliation and retraumatise individuals, we propose that all recipients of the scheme should sign a non-disclosure order in relation to receipt of award. In line with this proposal willing disclosure of the award should result in a reduction penalty from the claimants' award.

The first principle mentioned by the Government states that the scheme should be victim-centred (para. 35) Although this appears to be commendable, the Government has not provided a definition of who will be considered a victim under the proposed scheme. It is therefore submitted that for the proposed scheme the Government should use the definition of victim provided in Section 29 of the Justice Act (Northern Ireland) 2015 which reads as follows:

“29. - (1) Subject to subsections (3) to (6), in section 28 “victim” means an individual who is a victim of criminal conduct; and, in relation to a victim, references to “the criminal conduct concerned” are to be construed accordingly.

(2) In determining whether an individual is a victim of criminal conduct, it is immaterial that no person has been charged with or convicted of an offence in respect of the conduct.

(8) “Criminal conduct” means conduct constituting an offence.”

2.5. In line with the victim-centred principle, the Government should avoid the re-traumatisation of innocent victims in making the scheme equally available to individuals who were actively engaged in criminal conduct such as acts of terrorism.

Transparent

The Government sets another principle, for the scheme: it should be transparent in order to classify who will benefit from the scheme. In line with the definition of victim in the Justice Act (Northern Ireland) 2015 the Government should make it clear that only victims of criminal conduct, Particularly victims of terrorism will benefit from this scheme

It is more important that confidentiality is maintained, transparency will mean that there is a degree of oversight. It is more important that we maintain to confidentiality. Wherever possible no perpetrator should benefit from this scheme.

Simple to Navigate: We propose that an online and manual version of the scheme payment form must be made available to potential recipients. Given the mean age demographic of many potential recipients, manual forms accompanied with trained advisors would ensure that the scheme would be less daunting for clients to access.

Injured through no Fault of their own. Injured as a result of their own involvement as evidenced by a criminal conviction, this should be expanded to include injury sustained as a result of their own actions which may not have resulted in a conviction. It is widely accepted that perpetrators especially those from the border areas were taken to hospital following their injuries sustained in perpetrating terrorist acts for treatment and therefore were out of reach from UK Authorities.

There is no requirement for the Government to apply such a restrictive interpretation of the exclusion which would open the scheme to individuals injured while actively engaged in criminal conduct, mainly acts of terrorism, for which there is no evidence of a conviction.

This principle should be amended in order to address the limitations of this exclusion, in compliance with Section 10(3) (d) of the Northern Ireland (Executive Formation etc.) Act 2019, which makes provision for eligibility criteria for payments that may relate to “whether or not a person has been convicted of an offence”.

The range of circumstances in which individuals engaged in criminal conduct, such as terrorists, may have been responsible for incidents causing their own injuries do not automatically presume that a criminal justice outcome would have been possible or realistic.

The proposed exclusion as it stands makes this presumption, and for this underlying reason must be amended. Failure to address this will inevitably lead to recipients of the scheme being individuals responsible for criminal conduct, namely terrorists, and media coverage of this. This will then retraumatise innocent victims and eventually destroy wider confidence in the scheme for many of the victims it is designed to help. Such an outcome will also be contrary to the spirit of both the scheme and the government's declaration on exclusion.

In order to make the wording of the exclusion more robust, we have identified groups of injured individuals who should be excluded in line with the spirit of the legislation, and the clear intention of the government's declaration, but who would remain unaffected by the current wording requiring criminal conviction. These are:

- Members of paramilitary organisations injured in punishment beatings by the organisation they were a member of or by another paramilitary organisation;
- Self-inflicted injuries where the incident perpetrated failed in its intent or was caused in preparation for an incident;
- Injuries inflicted on individuals engaged in criminal activities by security forces acting to prevent a terrorist incident.

We therefore propose the following additional wording for the exclusion:

- Individuals who were injured as a result of their involvement in criminal conduct, as evidenced by a relevant criminal conviction;
- Individuals who were injured as a result of their involvement in criminal conduct, as evidenced by the circumstances of the incident;
- Individuals involved in criminal conduct who were injured by paramilitary organisations which they were actively a member of, or by another paramilitary organisation;
- Individuals involved in criminal conduct who were injured as a result of the lawful use of force by Security Forces in defence of any person from unlawful violence.

The Government should reconsider its approach so as to ensure that individuals injured as a result of their involvement in criminal conduct, particularly terrorist activities, whether convicted or not in relation to an incident, should be excluded from the scheme.

Those eligible for the scheme should be individuals who never engaged in any form of criminal conduct and who were injured as a result of criminal conduct by someone else. The scheme should also be open to those who were not involved in any form of criminal conduct and who were injured as a result of the use of force by security forces (para. 57).

The scheme should be open to primary victims who were directly involved in the incident and secondary victims who witnessed the incident. The secondary victims of closely related victims who were murdered in a traumatic terrorist incident, in particular parents who lost their child or children who lost their parent(s) in acknowledged terrorist bombings should not

have to demonstrate that they were physically present at the incident to be able to access the scheme (para. 58).

Recovery from Troubles Related Incidents must be encouraged for all claimants and must not be a barrier within the process. Claims based on past injuries received must be acknowledged the potential for well-being / physical improvement through future treatment should not disincentivise claimants who have suffered as a result of previous troubles related incident.

Question 3

We acknowledge that putting a cost on individual suffering resulting from the troubles is a very difficult and uncomfortable challenge, and we fully accept that for many no amount of financial or monetary recompense will ever replace a lost loved one or reduce the suffering or pain an individual is living with. However difficult the process is, the lost and injured must be recognized and we commend all efforts to address it. We have noted a number of comments in relation to this question below. Overall the scheme is fair and an entry level of 20% is in line with Industrial Injuries and War Pension Scheme however during consultation phase a number of recommendations and concerns outlined below are presented.

In reviewing the proposals, we have no objection to scaling awards in proportion to injury severity, however, the financial level of award in today's society appears rather low and we *would recommend an uplift of between 15-20%* to ensure a more effective measure of financial recompense for the harm suffered is achieved and the claimant is better supported with the associated increasing costs of living with injuries in today's society. For example a claimant with a 20% injury award would be unable to avail of weekly or even bi weekly private counselling/ physiotherapy support with the level of award that is indicated within the 20% category.

It was raised amongst many victims consulted that the level of compensation awarded the families of the Bloody Sunday Massacre far exceeded what was being proposed within this document, which has inevitably led many victims to ask why certain victims seemingly are receiving different treatment. Further explanation in relation to this has been requested.

Again *it is noted no payment for widows/widowers bereaved* as a result of the Troubles. It is recommended that as an amendment to this scheme that consideration is given to flat rate payment is made to widows/widowers, In the case of both parents being deceased (one or both as a result of a troubles related incident) we recommend the introduction of a flat rate family award (to direct descendants ie children) be made available within this scheme. To target the injured only is in our opinion unfair and unjust and all victims should wherever possible be able to receive this support.

In many cases the injury sustained may have a different date for a prognosis of a mental health condition especially PTSD as an example. By that someone can be physically injured as result of terrorist action and the onset of mental health conditions may not appear for many years after the incident before it can be diagnosed and treated.

In relation to mental health diagnosis we recommend the utilization of most recent psychiatric diagnostic tools be utilized in assessment to ensure the most accurate level of psychological injury is prescribed.

Further concerns have been raised regarding the means used to assess/diagnose someone suffering from psychological trauma in terms of their entitlement to the scheme, many respondents stated that the document focuses heavily on physical impact and not enough on psychological impact of incidents and emphasis should be placed on how incidents have affected families and not just individual

Question 4

Overall the scheme is fair and an entry level of 20% is in line with Industrial injuries and War Pension Scheme. In relation to psychological injury, we would suggest the utilization of a psychiatric /psychological assessment utilizing the most recent psychometric diagnostic tools and account should be taken into those who currently avail of support within this area. For a claimant to have been diagnosed with a psychological injury and not completed a course of treatment would warrant further investigation before the level of injury was accepted.

One interesting point raised by a number of ex security force personnel consulted during the process was in relation to shrapnel injuries and how the full scope of their injuries cannot be fully assessed due to inability to receive MRI scans. For these victims they believed that the accurate impact of this injury may not be fully evidenced and thus would impact their level of award. Consideration of this and similar situation must be considered during the assessment process.

In relation to the table at Para 44 , based upon our experience in working with injury on duty and war pension claimants we would suggest that 60% of claimants will fall within the mild to moderate range of severity, 20% in the moderate to moderate severe and 20% in the severe end of the range.

Para 45: This will require careful scrutiny when the scheme is implemented. There is a clear link between physical health and mental health and an agreed entry standard should be implemented utilizing the most recent diagnostic tools if no previous supporting documentation is available. Illnesses such as hypertension, diabetes are compounded and could be the onset of a condition due to poor mental health.

Para 49: It is noted that income from payments will not be effected by income related benefits. This will mean that income related benefit. This draws the conclusion that income from widows pension from RUC and Military Widows will be taken to account as they will have these pensions paid from the date of the death of their husband/ wife.

It is well documents that the level of award attributed to Widows / Widowers from the 60/70/80's will have been financially impacted. Consideration should be given to waiving their pension payments as their pension payments will be substantially less than claimants from the latter end of the Troubles, when it was acknowledged that the level of award previously allocated was insufficient.

In summary as mentioned in the previous response to question 3, whilst we agree with the entry points proposed we would suggest revisiting the financial level of recompense attributed to the scales to ensure the award has the potential to improve the lives of victims and survivors in their latter years.

Question 5

We fully endorse the proposition that Victims or their spouses, registered carers etc, should be able to receive either lump sums, passing or ongoing payments until the rest of their lives.

However, to ensure this scheme is victim centered, fair and transparent we must acknowledge that each individual case is unique and the duration of suffering as a result of the Troubles Related Incident should be taken into consideration and acknowledged in any victim payment scheme.

We firmly disagree with the proposition that the payment entitlement for suffering as a result of troubles related incident is being backdated to any political arrangement, in this case Stormont House.

We propose that partial or complete lump sums should take into consideration the uniqueness of each case and consideration should be applied to backdating the potential lump sum award to the date of the troubles related incident thus acknowledging and recognizing the suffering that has been experienced by the victims.

Furthermore the implementation of a time limited claim will have an impact upon new entrants after the scheme is up and running, especially for clients who have suffered with more recent Troubles Related Incidents, who may not present with mental health condition from 3-22 years after the event. Time Limitation of presenting issues may have the potential to exclude them from applying from support that they are entitled too.

As indicated within our response to question 3, funding for Victims Payment Support Officer must be in place before this 2 year window becomes operational. To ensure that victims many of who due to the age demographic of the target group will require support in completing these forms either manually or online from a trained advisor within organisations they feel confident and secure in. Therefore if a time limited window is to be imposed we recommend the introduction of funding to enable the creation of these support position be made available at least 2/3 months before the proposed opening of this two year window to ensure that all eligible claimants receive the same level of support within this process.

Question 6

We fully agree , as stated within para 51 that Victims should have choices, we believe that in response to this question victims must be offered more options to choose from when they are deemed eligible.

As indicated within our response to question 5, we believe that the suffering that has occurred previously must be included in any award. Therefore we believe that any lump sums must be calculated from the date of incident.

We would recommend the implementation of a 50% lump sum award option be afforded to the potential claimant, a similar option currently available within other “pension” schemes with the remaining 50% being calculated to increase ongoing payments if this option was chosen by the claimant.

We would further suggest that the future lump sum (partial or complete) should be based upon an upper limit of 15 years of payments for claimants between 60-70 years of age as opposed to the suggested ten years of payments. However we do propose that claimants applying in their 70’s should be limited to 10 years. With advances in medical science and improved lifestyles leading to increased longevity we would propose a longer period of 15 years which has a greater potential to support victims for the remainder of their lives.

One needs to be mindful of future needs of clients, if a client is deemed ineligible (possibly due to delayed onset of psychological injury) are they still entitled to avail of currently VSS support schemes, or will only those in receipt of victims payment schemes be eligible to receive support.

Another suggestion we recommend considering which would improve the overall efficacy of the payment scheme for recipients of the lump sum award be offered free, impartial and confidential financial advice for claimants on receipt of award as to how best utilize the award that they have received. Previous schemes such as Patton in relation to RUC officers could have been improved with the proviso of financial welfare advice for claimants when they received.

Question 7

For surviving primary beneficiaries, following the death of an injured persons we propose a similar arrangement to that stated within our response to question 6. For surviving beneficiaries within the 60-70 age arrange we propose that payments should be made to cover the remainder of the surviving primary beneficiaries life. Those surviving beneficiaries who have chosen to remarry should continue to receive this payment until the end of their life. Clarification is required in terms of what would happen in terms of the impact on any payment in the event that someone in receipt of the payment re-marries

Question 8

As outlined within our response to question 4 we firmly disagree with the proposition that the payment entitlement for suffering as a result of troubles related incident is being backdated to any political arrangement, in this case Stormont House.

In response to this proposition, we suggest that surviving beneficiaries should be afforded the opportunity to apply for payments back to date of the initial incident this ensures that their suffering is totally recognized and not just partially as would be the case in backdating whilst understandable to Stormont House.

Question 9

Whilst we fully understand that for budgeting and planning purposes suggested time frames must be included as a starting point for discussion we suggest extending the end date noted in the document for the following reasons.

As it stands one notable exception is the Exclusion of The Omagh Bomb. The victims of the Omagh Bomb would be excluded from availing from this scheme, however they are certainly entitled, as also are the families of Mr Carroll, Mr Kerr and Mr Black among many others who since 1998 have been the victims of Troubles Related Incident at the hands of terrorists.

Whilst the quantity of victims in recent years is certainly not what it was in years previous, regrettably Republican and Loyalist Terrorism and paramilitarism still has a stranglehold on many sections of the unionist and nationalist community, and these illegal paramilitary and terrorist organizations still are victimizing the innocent within their communities. These victims are entitled to receive recompense as a result of their actions until these groups are eradicated from Northern Irish society.

In consultation with victims we had initially proposed that this scheme have a end date of legislation enactment date, however victims believe that (1) due to the continued threat and presence of terrorism in Northern Ireland and (2) The impact of trans generational trauma of 2nd and third generation victims and the delayed onset of trauma this scheme should remain open ended to ensure no victims are prohibited from availing of this support.

The possibility of a sunset clause being implemented in the event of terrorist activity ending could be recommended to address some concerns.

Question 10:

We believe the current approach outlined within the scheme should be expanded.

As an organization who does not agree with the current Victims Survivors Order 2006, we are of the firm belief that wherever possible no one engaged in any illegal terrorist or paramilitary Troubles Related Incident or a State Actor engaged in illegality who suffered injury should not be able to seek payment from this scheme. To ensure this scheme is as transparent and victims centered we propose the following.

Furthermore in consultation with victims the strong opinion amongst those we consulted with is that no claimant who was ever a member of a terrorist/paramilitary organization should be eligible for support through this scheme.

Injured as a result of their own involvement as evidenced by a criminal conviction, this should be expanded to include injury sustained as a result of their own actions which may not have resulted in a conviction.

It is widely accepted that perpetrators especially those from the border areas were taken to ROI hospital following their injuries sustained in perpetrating terrorist acts for treatment and therefore were out of reach from UK Authorities thus reducing the prospect of Conviction.

To ensure that the scheme is fair, transparent and victim centered all those engaged in illegally perpetuating the Troubles in Northern Ireland must be ineligible and excluded from this scheme, for those engaged in terrorist activity to benefit from this scheme greatly hinders the prospect for future reconciliation and has the potential to retraumatise all innocent victims and survivors and their families. Any conviction or evidence provided of involvement in terrorist activity/organisation should serve as barrier to anyone being entitled to scheme

In order to make the wording of the exclusion more robust, we have identified groups of injured individuals who should be excluded in line with the spirit of the legislation, and the clear intention of the government's declaration, but who would remain unaffected by the current wording requiring criminal conviction. These are:

- Members of paramilitary organisations injured in punishment beatings by the organisation they were a member of or by another paramilitary organisation;
- Self-inflicted injuries where the incident perpetrated failed in its intent or was caused in preparation for an incident;
- Injuries inflicted on individuals engaged in criminal activities by security forces acting to prevent a terrorist incident.

We therefore propose the following additional wording for the exclusion:

- Individuals who were injured as a result of their involvement in criminal conduct, as evidenced by a relevant criminal conviction;
- Individuals who were injured as a result of their involvement in criminal conduct, as evidenced by the circumstances of the incident;
- Individuals involved in criminal conduct who were injured by paramilitary organisations which they were actively a member of, or by another paramilitary organisation;
- Individuals involved in criminal conduct who were injured as a result of the lawful use of force by Security Forces in defence of any person from unlawful violence.

Those eligible for the scheme should be individuals who never engaged in any form of criminal conduct and who were injured as a result of criminal conduct by someone else.

The scheme should also be open to those who were not involved in any form of criminal conduct and who were injured as a result of the use of force by security forces (para. 57).

The scheme should be open to primary victims who were directly involved in the incident and secondary victims who witnessed the incident. The secondary victims of closely related victims who were murdered in a traumatic terrorist incident, in particular parents who lost their child or children who lost their parent(s) in acknowledged terrorist bombings should not have to demonstrate that they were physically present at the incident to be able to access the scheme (para. 58).

Question 11:

We do not agree with the proposed approach based on residency and location of incidents. Annex C Section 11 states that a Troubles Related Incident states an *“incident involving an act of violence or force carried out in Ireland, The UK or anywhere in Europe for a reason related to the constitutional status of Northern Ireland or to political or sectarian hostility between people there “*

Therefore if an individual was a recipient of such as incident as described above, irrespective of where their permanent citizenship resides they should at least be afforded the opportunity to seek acknowledgement for the incident suffered through this scheme.

The impact (injury/bereavement) of the Troubles Related Incident on an individual (irrespective of citizenship) should be the determining factor in relation to this scheme. From what is proposed it appears that service personnel and their families which were killed and or injured as a result of the terrorist campaign in Europe in 1987 and 1996 are prevented from availing of this scheme and this does not seem fair that citizenship appears to be a factor in award outcome.

We do not envisage large quantities of eligible persons availing of this scheme who if they scheme was widened could apply, however for reasons of fairness and morality they should be afforded the same opportunities as others.

Question 12:

Great care must be applied during the assessment phase as firstly there is difficulty in assessing entitlement – physical entitlement is much easier to define than on the basis of psychological need for payment however as previously mentioned the outcome cannot be fully accurate (eg shrapnel injuries and MRI scans) whilst we fully agree that all victims were evidence does not currently exist must be assessed and assessed according the most recent and robust psychometric measurement tools great care must be taken to support and care for victims going through the process.

We recommend that claimants be able to use evidence of awards for physical/mental trauma where an award has been allocated from War disability scheme, Injured on Duty claims or similar. The same will apply to widows who were widowed as a result of an incident, proof of award under the Armed Forces Pension Scheme, War Widow Pension and for RUC or Prison Service, proof of death on duty-bereavement scheme should be admissible.

Similarly those currently in receipt of benefit under the new welfare reform act specific to their injuries should be accepted to reduce need for excessive assessment and administrative burden and the same applies for those currently in receipt of VSS INC awards relating to their injuries.

There remains a strong possibility that the approach taken in assessing entitlement could re-traumatize victims – great care is needed in this regard. We would strongly encourage that victims are offered the option of availing of assessment in VSS of VSS funded organizations if desired. Where victims feel secure and are able to access additional support if required would be recommended to limit the possibility of retraumatization occurring. Inherent in this recommendation would be the vital support provided throughout this process by the Payment Support Officers which we have recommended previously.

Question 13

We disagree with this proposal. During consultation phase amongst members it was strongly raised that claimants should not be negatively impacted as a result of previous compensation that they have received. If acknowledgement is the basis for this proposal and recompense / restitution is not the objective, then previous awards should not be taken into consideration as the payment scheme is being proposed as acknowledgement.

Question 14. In broad terms yes we agree. We should use the same process as for appeals based on the current system of Pension Appeal Tribunals. Impartiality of potential appeals is vital to have any confidence in the process

Question 15 – We strongly recommend that pre, during and post support be made available to the claimant throughout the process. For those clients currently registered with Victims Support Organizations additional support should be provided to ensure this support continues for the duration of the scheme. Similarly where clients are not registered the option of availing of current support available should be made aware to victims, be that through VSS or similar organizations.

Closing Remarks

We believe that in the pursuit of reconciliation there will be many difficulties and bumps along the road however we broadly support this vision and are only seeking to provide our insight to assist in the development of this journey.

We would encourage those charged with the delivery of this project, to utilize the services that are already available and integrate them into the final process which have been built through much toil and hardship over the years and have gained the trust of many victims and survivors.

In our case in particular to not make use of current in house expertise in the treatment and support of victims must be recognized as a template for any service access. The added value of the organisations such as ourselves who are in many case the first point of contact for victims seeking health and well being and financial support could be of extreme benefit in ensuring the endorsement of this scheme from the victims community as there is currently a perception of mistrust and potential for disengagement.

Such processes on the ground must be sensibly and realistically handled and a strong duty of care and responsibility must be upon those dealing with victims and their families.

The proposed scheme raises very serious concerns in relation to eligibility and exclusion.

The Government should reconsider its approach so as to ensure that:

- Those eligible for the scheme are individuals who did not engaged in any form of criminal conduct and who were injured as a result of a criminal conduct by someone else or as a result of the use of force by security forces;
- Individuals injured as a result of their involvement in criminal conduct, particularly terrorist activities, whether convicted or not in relation to an incident should be excluded from the scheme.

If this is not done the scheme will fail to provide acknowledgement and recognition it was meant to deliver to innocent victims and particularly victims of terrorism.

CONCLUSION:

If HM Government proceeds with these proposals we will monitor their existing commitments and implementation closely to ensure fairness, impartiality, balance and that victims and veterans are placed front and centre where they deserve to be.

In reflection this has been a very workable attempt at the legislation, however as an organization we have raised a number of concerns and recommendations were appropriate in relation to the current proposals as they stand and would strongly urge that our concerns be considered in any proposed development

In conclusion The Ely Centre remains cautiously optimistic and broadly committed to the vision of the 'Victims Payment Scheme' outlined in the Stormont House Agreement and the specific principles underpinning it.

We welcome further discussion and engagement over the coming weeks and months and trust the views and concerns we have shared and the suggestions made on our behalf will be given serious consideration.

